

**IN THE DRAWINGS**

Please amend the drawings as follows:

Please replace Figure 7 with the enclosed “replacement sheet” for Figure 7.

Specifically, in Figure 7, please change the reference character 705 used to designate the block with the wording “determining whether the rate of C/I change is positive or negative” to the reference character 704, corresponding to the specification, paragraph 00037.

Corrected drawings with marking outlining the amendment as such are enclosed herein.

REMARKS

The Examiner has made several objections relating to the drawings, specification and the claims. Corrections have been made in response to the objections by way of the amendment.

The Examiner has rejected claims 1, 2, 5-7, 10-15, 18-20 and 23-37 under section 102 (e) as being anticipated by Tran U.S. 6,735,449. For rejecting claim 1, the Examiner notes that Tran discloses [calculating] a power up or power down command based the rate of change of SIR, thereby determining a gain level of the channel. Applicant disagrees with the Examiner.

Gain level of a channel is dependent on at least two factors which in combination determine the gain level. These two factors are data rate of the channel and the power level of the channel. For example, gain level of a channel at a very high power but at low data rate may be lower than gain level of a channel at low power level but high data rate. It is the combination of these two factors that determine the gain level of the channel. Therefore, a gain-up command does necessarily mean a power up command, and similarly, a gain-down command does not necessarily mean a power down command. Tran discloses specifically determining the power level commands.

The problem of efficiently transmitting a channel is not solved by simply determining the power commands based on the rate of change in the SIR of a received signal. Such a solution is completely lacking. Whereas the gain level of the channel determined based on the rate of change of the C/I is a complete solution for efficiently transmitting a channel to a receiver, because it is the combination of the data rate and the power level as defined by the gain level of the channel that determines the efficiency of the transmission. For example, when the rate of change of C/I indicates a desirable up command for the gain of the channel, the gain-up command is implemented by way of finding a combination of power level and data rate of the channel that increases the gain of the channel. Such a combination does not necessarily involve increasing the power level. Therefore, the disclosure made by Tran is lacking with respect to gain level of a channel, and more so the Examiner respectfully has erroneously found the power level to be equal to gain level of a channel. Since Tran does not disclose each and every element of claim 1, claim 1 is allowable over Tran.

Similar argument is presented with respect to independent claims 13, 26 and 32. Therefore, independent claims 1, 13, 26 and 32 are allowable over Tran.

As such, all other claims depended on the allowable independent claims 1, 13, 26, 32 and 38 are also allowable.

With respect to independent claim 38 and dependent claim 39, the Examiner has not made any comments in the detailed section of the Office Action, nevertheless, the Examiner has marked claims 38 and 39 as being rejected in the Summary sheet of the Office Action. It is therefore unclear to the Applicant whether the Examiner intends to reject claims 38 and 39. In view of the art cited by the Examiner and similarity of recited elements to the elements of the allowable claims 1-37, independent claim 38 and dependent claim 39 are as such allowable.

#### Drawings

Applicant submits that the above amendments to the drawings do not make any substantive changes or introduce any new material but are simply the correction of typographical errors, which are consistent with the specification as originally submitted. Therefore, approval and entry of the above amendments are respectfully requested.

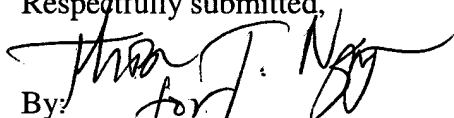
Applicant has concurrently filed herewith a Letter to the Official Draftsperson submitting the amended formal drawing for Figure 7 to replace the originally filed Figure 7, including corrected drawing informalities indicated on Form PTO-948 attached to the Office Action.

## REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Dated: June 29, 2005

Respectfully submitted,

 43,835

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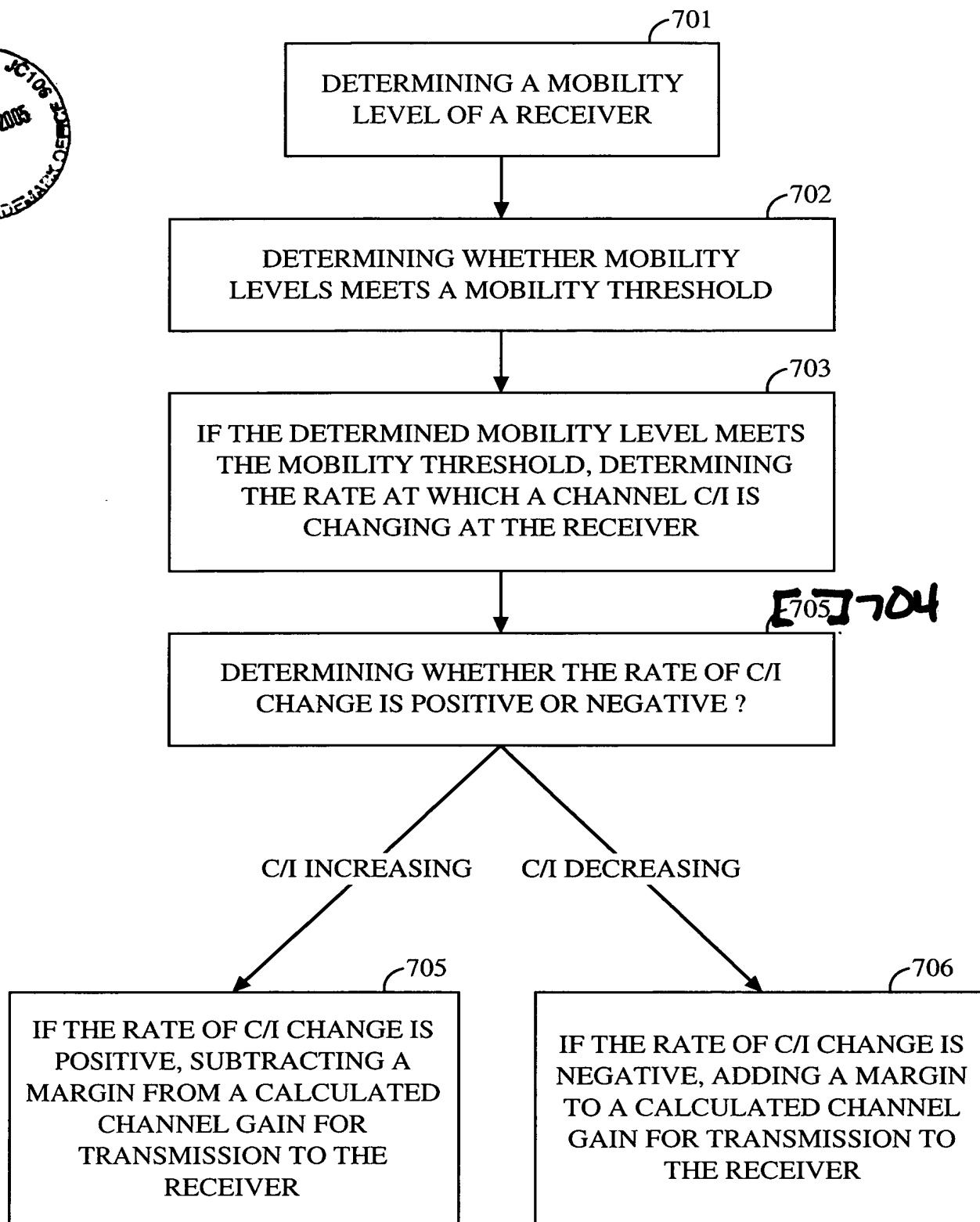


FIG. 7